

**ENTERED**

May 03, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

JOHN D PELKO,

Plaintiff,

VS.

PERALES, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:23-CV-00339

**ORDER ADOPTING MEMORANDA AND RECOMMENDATIONS**

Pending before the Court are two memoranda and recommendations issued by

United States Magistrate Judge Julie K. Hampton:

1. Memorandum and Recommendation to Dismiss Case (D.E. 20) entered April 1, 2024, recommending dismissal of this action as frivolous or for failure to state a claim upon which relief can be granted; and
2. Memorandum and Recommendation to Deny Plaintiff's Motion for Default Judgment (D.E. 24) entered April 4, 2024, recommending denial of default as premature because the case had not yet been screened and Defendants had not yet been served.

Plaintiff's complaint (D.E. 1, 10, 13) is presented for initial screening under the Prison Litigation Reform Act. *See* 42 U.S.C. § 1997e(c); 28 U.S.C. §§1915(e)(2), 1915A. Plaintiff filed his objections (D.E. 25) to the screening memorandum and recommendation (D.E. 20) on April 18, 2024.

Plaintiff's objections are merely a partial reiteration of his complaints and do not address the reasoning of the Magistrate Judge. An objection must point out with particularity the alleged error in the Magistrate Judge's analysis. Otherwise, it does not

constitute a proper objection and will not be considered. Fed. R. Civ. P. 72(b)(2); *Malacara v. Garber*, 353 F.3d 393, 405 (5th Cir. 2003); *Edmond v. Collins*, 8 F.3d 290, 293 n.7 (5th Cir. 1993) (finding that right to de novo review is not invoked when a petitioner merely re-urges arguments contained in the original petition). The objections are **OVERRULED**.


Plaintiff has not timely filed any objection to the memorandum and recommendation to deny his request for default judgment (D.E. 24). When no timely objection to a magistrate judge's memorandum and recommendation is filed, the district court need only satisfy itself that there is no clear error on the face of the record and accept the magistrate judge's memorandum and recommendation. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005) (citing *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996)).

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's memoranda and recommendations (D.E. 20, 24), as well as Plaintiff's objections, and all other relevant documents in the record, and having made a de novo disposition of the portions of the Magistrate Judge's memoranda and recommendations to which objections were specifically directed, the Court **OVERRULES** Plaintiff's objections and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge.

Accordingly, the Court **ORDERS** that all of Plaintiff's claims against Defendants Perales and Villareal in their individual capacities are **DISMISSED** with prejudice as frivolous and/or for failure to state a claim for relief. The Court **ORDERS** that this

dismissal counts as a “**STRIKE**” for purposes of 28 U.S.C. § 1915(g), and the Clerk of Court is **INSTRUCTED** to send notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas at [Three\\_Strikes@txs.uscourts.gov](mailto:Three_Strikes@txs.uscourts.gov). Plaintiff’s Motion for Default Judgment against Perales (D.E. 23) is **DENIED**. This action is **DISMISSED** in its entirety.

**ORDERED** on May 3, 2024.

  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE